MONTANA LEGISLATIVE HISTORY

Chapter 287 1981

Bill H 425 S _____ Original bill & history ✓ C

H. Committee on Local Gov't			S. Committee on Business & Industry		
Hearing Date(s)	Feb 12	✓ C	Hearing Date(s)	Mar 20	— C
	Feb 19	✓ C			C
		C			C
		C			C
Date Out	2-13	C	DATE OUT	3-20	

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

MORE THAN ONE STICKER PER VEHICLE SALE....
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON HIGHWAYS: 1/22
HEARING: 1/29
REPORT: DO PASS, 1/29
2ND READING: 2/3 YEAS: 85; NAYS: 6
3RD READING: 2/6 YEAS: 90; NAYS: 7

TRANSMITTED TO SENATE: 2/6
REFERRED TO COMMITTEE ON HIGHWAYS AND TRANSPORTATION: 2/7
HEARING: 3/7
REPORT: 3/7, BE CONCURRED IN
2ND READING: 3/10, YEAS: 28; NAYS: 15
3RD READING: 3/12, YEAS: 32; NAYS: 18

RETURNED TO HOUSE: 3/12
TRANSMITTED TO GOVERNOR: 3/18
ACTION: SIGNED, 3/20
CHAPTER 118

HB 422—MAISKO—TO CREATE THE POSITIONS OF CITY AND MUNICIPAL CONSTABLE.
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/22
BILL DIED IN COMMITTEE

HB 423—PISTORIA—TO REMOVE THE BOND REQUIREMENT WHEN A RECIPIENT OF PUBLIC ASSISTANCE REQUESTS A DUPLICATE STATE WARRANT AS A RESULT OF LOSS, THEFT, OR DESTRUCTION.
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/22
BILL DIED IN COMMITTEE

HB 424—D. BROWN, HARRINGTON, DAILY, ET AL—TO RAISE THE CEILING ON RATES CHARGED BY METROPOLITAN SANITARY AND/OR STORM SEWER DISTRICTS.
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/22
HEARING: 2/12
REPORT: DO PASS AS AMENDED, 2/13
2ND READING: 2/14, AS AMENDED YEAS: 84; NAYS: 5
3RD READING: 2/17 YEAS: 92; NAYS: 7

TRANSMITTED TO SENATE: 2/17
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/18
HEARING: 3/12
REPORT: 3/19, BE CONCURRED IN, AS AMENDED
2ND READING: 3/21, BE CONCURRED IN
3RD READING: 3/24, YEAS: 48; NAYS: 1

RETURNED TO HOUSE WITH AMENDMENTS: 3/24
2ND READING: 4/8 YEAS: 89; NAYS: 0
3RD READING: 4/9 YEAS: 94; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/13
ACTION: SIGNED, 4/17
CHAPTER 403

HB 425—MEYER, DUSSAULT, WILLIAMS, ET AL—TO PERMIT A MUNICIPALITY TO GRANT A NON-EXCLUSIVE FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS.
INTRODUCED: 1/22

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/22
HEARING: 2/12
REPORT: DO PASS AS AMENDED, 2/14
2ND READING: 2/19 YEAS: 80; NAYS: 4
3RD READING: 2/24 YEAS: 91; NAYS: 6

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON BUSINESS: 3/2
HEARING: 3/20
REPORT: 3/21, BE CONCURRED IN
2ND READING: 3/25, BE CONCURRED IN
3RD READING: 3/27, YEAS: 46; NAYS: 4

RETURNED TO HOUSE: 3/27
TRANSMITTED TO GOVERNOR: 4/1
ACTION: SIGNED, 4/6
CHAPTER 283

HB 426—HUENNEKENS--TO INCLUDE CERTAIN MINERAL PROCESSING PLANTS UNDER THE MAJOR FACILITY SITING ACT.
FISCAL NOTE: REQUIRED
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/22
HEARING: 2/11
BILL DIED IN COMMITTEE

HB 427—WALDRON—TO AUTHORIZE COUNTIES TO IMPOSE A TAX ON HOTEL ROOM RENTAL CHARGES IF THE MUNICIPALITIES OF THE COUNTY HAVING HOTELS WITHIN THEIR CORPORATE BOUNDARIES AGREE TO THE IMPOSITION OF THE TAX AND THE DISTRIBUTION OF THE PROCEEDS.
INTRODUCED: 1/22
HEARING: 2/10
REFERRED TO COMMITTEE ON TAXATION: 1/22
HEARING: 2/10
REPORT: DO NOT PASS, 2/12
REPORT: ADOPTED, 2/13
BILL KILLED: 2/13 YEAS: 80; NAYS: 13

HB 428—NORDTVEDT, GOODOVER, FABREGA--TO ESTABLISH A UNIFORM VEHICLE TAX SYSTEM FOR AUTOMOBILES AND LIGHT TRUCKS....
FISCAL NOTE: REQUIRED
INTRODUCED: 1/22
REFERRED TO COMMITTEE ON TAXATION: 1/22
HEARING: 1/29
REPORT: BE CONCURRED IN AS AMENDED, 3/23
ON MOTION, 3/26, PASSED CONSIDERATION TO 68TH LEGISLATIVE DAY.
ON MOTION, 3/27, PASSED CONSIDERATION TO 69TH LEGISLATIVE DAY.
ON MOTION, 3/28, PASSED CONSIDERATION TO 70TH LEGISLATIVE DAY.
ON MOTION, 3/30, PASSED CONSIDERATION FOR DAY.
2ND READING: 3/31, YEAS: 81; NAYS: 15
ON MOTION, 3/31, RULES SUSPENDED AND PLACED ON 3RD READING
3RD READING: 3/31, YEAS: 86; NAYS: 10

TRANSMITTED TO SENATE: 3/31
REFERRED TO COMMITTEE ON TAXATION: 4/1
HEARING: 4/3
BILL DIED IN COMMITTEE

HB 429--VINCENT, FABREGA, BARDANOUVE—TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE MONTANA CONSTITUTION TO

HOUSE BILL NO. 425

INTRODUCED BY MEYER, DUSSAULT, WILLIAMS, STOBIE, COZZENS, QUILICI, FEDA

IN THE HOUSE

January 22, 1981	Introduced and referred to Committee on Local Government.
February 16, 1981	Committee recommend bill do pass as amended. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading, do pass.
February 20, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 91; Noes, 6. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Business and Industry.
March 21, 1981	Committee recommend bill be concurred in. Report adopted.
March 24, 1981	Motion pass consideration.
March 25, 1981	Second reading, concurred in.
March 27, 1981	Third reading, concurred in. Ayes, 46; Noes, 4.

IN THE HOUSE

March 28, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 425

INTRODUCED BY Meyer, Dyrstad, Williams, Stobie, Boggus, Juneau, Eudaily

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A MUNICIPALITY TO GRANT A FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS; REPEALING SECTIONS 7-5-4321 AND 7-5-4322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Repealer. Sections 7-5-4321 and 7-5-4322, MCA, are repealed.

Section 2. Effective date. This act is effective on passage and approval.

-End-

INTRODUCED BILL

HB 425

STATUS SHEET

LOCAL GOVERNMENT COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 383	To eliminate the mileage allowance for certain county commissioners for travel between the county seat and their place of business	1/20	Pistoria	Tues. 2/10	DO NOT PASS 2/10 (vote 8 to 3)	2/11
HB 393	To remove the requirement that boards of county commissioners must publish a detailed list of their expended claims	1/20	Vinger	Tues. 2/10	DO PASS AS AMENDED	2/21/81
HB 413	To allow a county officer who is paid on a per-day basis to be paid on his per-day rate of pay for attendance at conventions, meetings, or other gatherings of public officers	1/23	Bertelsen	Tues. 2/10	DO PASS 2/10 (Unanimous)	2/10
HB 422	To create the positions of city and municipal constable	1/23	Matsko	never heard	—	—
HB 424	To raise the ceiling on rates charged by metropolitan sanitary and/or storm sever districts	1/23	D. Brown, et all	Thurs. 2/12	DO PASS AS AMENDED	2/13
HB 425	To permit a municipality to grant a franchise without submitting the application therefor to the electors.	1/23	Meyer, etc.	Thurs. 2/12	DO PASS AS AMENDED 2/13	2/14

Form CS-32
1-79

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ROLL CALL

LOCAL GOVERNMENT COMMITTEE

KEY: X - Present
A - Absent
E - Excused

47TH LEGISLATIVE SESSION, 19 81

Name	Date													
	2/10	2/11	2/12	2/13	2/16	2/18	2/19	2/19	2/20	2/21	3/5	3/5	3/7
Verner Bertelsen, Chm	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Doren Winger, V. C.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Aaron Andreason	E	X	X	X	X	X	X	X	X	X	X	X	X	X
James Arrana	X	X	X	E	X	X	X	X	X	X	E	X	X	A
Toni Bergene	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ann Mary Dussault	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Budd Gould	X	X	X	X	X	X	X	X	X	X	X	E	X	X
Gay Holiday	X	X	X	X	X	X	X	X	X	X	X	X	X	A
Burt Hurwitz	E	E	X	E	A	E	X	X	X	X	X	A	A	E
Gerald Kessler	X	X	X	X	A	X	X	X	X	X	X	X	X	X
Les Kitselman	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tom Hannah	X	X	X	X	X	X	X	X	X	X	X	X	X	A
John Matsko	X	X	X	X	X	X	X	X	X	X	X	X	E	X
Kathleen McBride	X	X	X	E	X	X	X	X	X	X	X	A	X	X
Ted Neuman	X	X	X	X	X	X	E	X	X	X	X	A	X	X
Paul Pistoria	A	A	A	A	A	A	A	A	A	X	X	X	X	X
Walter Sales	X	X	X	X	X	X	X	X	A	X	E	E	X	X
Dean Switzer	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Steve Waldron	X	X	X	E	X	X	X	X	X	X	E	A	E	E
Lee Heiman, Staff Attorney	X	X	X	X	X	X	X	X	X	X	X	X	X	X

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 12, 1981

The Local Government Committee met Thursday, February 12, 1981 at 12:30 p.m. in Room 103 of the Capitol. CHAIRMAN BERTELSEN called the meeting to order and the secretary took the roll. All committee members were present except REP. PAUL PISTORIA, who was absent. Staff Researcher Lee Heiman also attended the meeting.

HOUSE BILL 562

REP. BOB THOFT, sponsor of HB 562, said this is an act to revise and simplify the process of adding contiguous land in an unincorporated area to a sewer district. What the bill does is make it possible to take in a contiguous landowner by petition without having an election. Under the present law an election is required and this could cost from $900 to $1,000. I'll use Victor as an example. This is an unincorporated town, but they do have a sewer district there. They are running at about 30% capacity. If this bill is passed, they can take in contiguous land owners by petition without an election. I think there are about only 12 of these unincorporated towns in the state, but I think there will be many more in the future because of the need for sewer districts and the fact that incorporating is not all that popular. If you have any questions, I'll be glad to try and answer them. Thornton Mann, a representative in the 1974 session, is here to testify as a proponent.

PROPONENTS FOR HOUSE BILL 562

THORNTON MANN of Victor said he'd like to support HB 562 and urged that the committee recommend a DO PASS.

OPPONENTS OF HOUSE BILL 562 - As there were none, CHAIRMAN BERTELSEN asked if REP. THOFT would like to close.

REP. THOFT said he closes. Before the bill was drafted he checked it out with REP. GOULD and figured he was over the hump as he felt it was a good bill.

QUESTIONS FROM COMMITTEE MEMBERS

REP. HANNAH asked REP. THOFT the following question. On line 19, page 2 this must be done by a petition from the people.

REP. THOFT replied that is correct.

REP. HANNAH asked if there are any provisions in this bill that will cause people to sign away their rights to protesting annexation in the future?

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REP. BERTELSEN closed the hearing on HOUSE BILL 516.

HOUSE BILL 425 - sponsored by REP. DARRYL MEYER

REP. MEYER said House Bill 425 which repeals sections of the law eliminates the franchising where a company has to go in and have an election. What has happened in the past, for instance in the City of Billings, where the population is around 65,000, they have to have an election which costs the company that wants the franchise quite a bit of money. For instance, there are 65,000 people in the city and only 318 people turned out to vote. This bill leaves the matter up to the governing body, either the county or the city, to grant this franchise.

PROPONENTS FOR HOUSE BILL 425

PERRY WEIDLER represented the Montana-Dakota Utilities Company. We are asking that you repeal sections 7-5-4321 and 7-5-4332 which set forth the election procedure. At the present time any company serving natural gas has to petition the city council to hold an election. Mr. Weidler said they support House Bill 425. (See attached testimony which is made a part of these minutes.)

BOB GANNON stated he is with Montana Power Company. As Mr. Weidler has indicated, this does relate very significantly to the gas operations of the utility business. It does not apply to the electricity side of our business. We have had similar experiences in every town and city in the State with francise elections. The franchise is simply granting the power to use the streets and alleys to lay the pipelines. We had two examples in the last three or four years where in a franchise election in the town of Chester and in Belgrade, the franchise was turned down by the voters and we ended up in the unique position of not having the authority granted by the municipality to conduct business in the towns. Since we didn't have the authority, we didn't know what we were going to do; pull up our gas lines or not serve the community. There really is no alternative to our service. Another election had to be held. We feel getting the authority from the City Council is sufficient so we don't have to go through the unnecessary costs of having an election. We hope you support HB 425.

DAN MIZNER signed the visitors' register as a proponent for HB 425.

OPPONENTS FOR HOUSE BILL 425

WILLIAM ROMINE represented the Solid Waste Contractors Association. He said he has a few problems with the bill from the garbage collectors point of view. I don't necessarily agree with the position that the franchise is not exclusive, so I won't speak to that as other opponents will. I am a little

bothered by the fact that we have power people telling us we should do away with elections. This law has been on the books since 1895 and I don't see any reason to change it now. (See balance of written testimony which is attached to and made a part of these minutes.) We oppose House Bill 425.

GARY ZADECK, registered lobbyist for the Solid Waste Contractors, said most of the proponent's testimony has to do with utilities, natural gas, electric and telephone service. Solid waste is also a utility service of sorts. Presently cities have the ability to provide garbage service. Also in the major cities of Montana there are private carriers. We view this bill as an exclusive right of franchise. I argue with the testimony submitted by Mr. Weidler that it is a non-exclusive right franchise. By repealing this bill the city management would have the ability to award a contract to one carrier to serve the city. That would in effect put existing carriers out of business. Most of the solid waste contractors are virtually made up of family member operations. They have a substantial investment in equipment and a certificate issued by the Public Service Commission. The certificate has a value very similar to that of a liquor license of any where from $70,000 to $200,000. By granting the cities the ability without submitting it to a vote of the people to contract with just one carrier you put people out of business. Their investment and life savings and their livelihood goes down the drain. The Solid Waste Contractors are very much opposed to allowing city management a very important and devastating decision without the approval of the voters. If it isn't the intention of the proponents of this bill to affect solid waste contractors (garbage carriers), I suggest it be amended with that exception.

Suppose a city can grant a granchise for one garbage carrier to serve the city, without a vote of the people. Three years down the line the other carriers are out of business. That contract is up. The effect of the bill would eliminate all competition. The bill would also give the city the right to decide who would receive one of these franchises. We hope you will oppose House Bill 425 or amend it so it will not include solid waste carriers.

VESTER WILLIAMS from Hamilton, Montana said he operates the Bitterroot Disposal Service. I won't repeat what the other opponents said, but I hope you will amend this bill excluding our industry should this bill pass. I still think we are playing on dangerous ground. Any time you say, "no, we don't want to listen to the vote of the people as the turnout hasn't been too good in the last few years", I think we're making a mistake. I've seen many elections where the turnout wasn't too good, but many times it picks back up. I think we're playing with fire when we say we don't want to give the people a chance by casting their vote.

Other opponents who signed the visitors' register were Scott Orr, a Libby Solid Waste Contractor; Donna Hartley of Helena; Max Bauer, Jr. of Missoula, and John Palagi of Great Falls.

CHAIRMAN BERTELSEN asked if there were any further opponents. As there were none, he asked for questions from the committee.

QUESTIONS FROM THE COMMITTEE MEMBERS

REP. HURWITZ asked Mr. Romine the following question. The gentlemen who just spoke said if we didn't hold an election and the city was to hire someone to take care of the solid waste, then the other solid waste people would be put out of business. Wouldn't the same thing hold true if you held an election and one solid waste collector was selected full-time?

BILL ROMINE said yes, it could happen. But if you didn't give the public the opportunity to vote, there could be opposition to that type of proposal. Other carriers could come before the public and say, "wait, this would be the result." If you want to handle it that way, that would be fine, but it would be through a vote of the people. The city has the right to give a franchise under present law with public approval. A franchise is a special privilege the city has to do something it is entitled to do under these powers. It is not for every contract. The city could conceivably franchise out police protection to a private group.

REP. MATSKO said the situation now is in a City like Great Falls, the residents have a choice. They can hire the city to haul their garbage or they can hire Montana Sanitation Service or Black Eagle Sanitation Service. The residents also have a choice. These people should realize that the importance of an election is giving them the choice to choose what they want to say. We feel the election will safeguard that choice.

REP. HANNAH said how he sees it, is the people can say to the city, "if you want to put some type of a service on a bid basis you have the right to do that. You also have the right to choose the best bidder".

BILL ROMINE said the problem is that a franchise is something that is granted to a private individual that is not granted to anybody else. In the present law, we do have that exclusion but this bill would allow an exclusion with the public's permission.

REP. ANDREASON asked Lee if, as he interpretes this bill in regard to the solid waste contractors, would it necessarily indicate that it would be an exclusive thing?

LEE HEIMAN said he doesn't think so but he made a note to check on it.

REP. ANDREASON asked Mr. Zadeck if we were to indicate in the bill not to exclude solid waste contractors as you have suggested, but to indicate in some way that there would be an exclusive kind of contract given to an individual, would that take care of your concern?

MR. ZADECK said I suppose it would. One of the problems is that this bill is a repealer, so it takes things off the books. I still think that may or may not be necessary. We haven't talked this through because we didn't know where the proponents were coming from, but right now the city could bid parts out, but not to the exclusion of everyone else. The city can haul garbage itself. It doesn't need a certificate.

REP. KESSLER asked Mr. Gannon who is correct because the handout we received states that a franchise is not exclusive and these gentlemen say it is exclusive? There is a mistake somewhere.

BOB GANNON said the handout was prepared by Montana-Dakota Utilities. I can say as far as Montana Power goes, and we handled a couple of these elections, that in our franchises we specifically state that they are not exclusive. As far as our gas utility business, we, in a franchise after it has been submitted to the voters and comes back with an ordinance from the municipality, are advised that it is a non-exclusive franchise.

REP. KESSLER to Mr. Gannon: So it is stated in your franchise and not in the law.

MR. GANNON said yes.

REP. SALES asked Mr. Weidler if perhaps we couldn't simplify our problems if we wrote into the bill that no election was required for non-exclusive franchises?

REP. MATSKO said he was looking at the handout from the utility corporation. You stated that these are not exclusive franchises in your contract. He asked Lee if we repeal these sections, wouldn't the bill apply to all franchises, exclusive and non-exclusive?

LEE said yes, there would not be an election for any type of franchise.

CHAIRMAN BERTELSEN asked for questions. As there were none, he closed the hearing on HOUSE BILL 425.

HOUSE BILL 424 - sponsored by REP. DAVE BROWN

REP. BROWN said he is here to explain House Bill 425. There are two changes being made on lines 16 and 20 of page 1. These changes affect no one except the people in Butte-Silver Bow. He gave a brief background of why this bill is being submitted. The number of representatives co-signing this bill shows the need for it. The law now stands with the $7 per unit rate. The Butte Metro sanitary and/or storm sewer district is presently the only system in the state affected by this particular section of law. The Metro waste water treatment plant was constructed and passed at $1.35 million and put into operation in January of 1970. Recent expansion of the sanitary and storm sewers amounted to $2.6 million. Metro storm sewers are subject to the laws of the 1979 addition of Montana Codes Annotated and is unique because it is the only sewage plant in Montana established by and governed by the Montana Legislature. Expansions in the Metro sewer system completed in 1979 were required to meet the regulations in the Environmental Protection Agency (the Federal EPA). The Metro sewer system is now in very good condition. There is a drastic need to increase revenues to meet the actual costs of operation, maintenance and treatment of the Metro sewage plant and a definite need to raise the ceiling from $7 to $10 due to sky-rocketing inflation, in order for the Metro sewer district to operate properly. Those of you around here know this is a touchy issue and in Butte Silver Bow it is commendable that we have unified support this year on the raise.

PROPONENTS FOR HOUSE BILL 424

JOE QUILICI from District 84 in Butte said anyone here in 1971, 1973 and 1974 will remember that we adamantly opposed this legislation because it is hard to raise your own sewer rates. That is exactly what we are doing. Over the years and with the new administration in Butte Silver Bow, we have been able to come up with some specific data concerning the operation of the Butte Metro Sewer Plant. I believe this is the first time the delegation has ever received information concerning the sewer rates in Butte Silver Bow. A lot of effort and time was put into compiling some factual information. In 1981 we are going to have a $190,000 deficit in our sewer district if we don't receive a raise, especially in an area like ours that is depressed with unemployment and everything else, but we must do it. In 1977 we had 25 employees; now we have 18. The administration has shown good faith in trying to run this plant in an economical manner and as conservatively as possible, yet with high energy costs and costs of chemicals, it is getting out of sight. The rates will raise from $42 to $60 per year, but it is still cheaper than most of the major cities in Montana. With that, I will hope that the committee will see fit to pass this legislation.

NAME Tom Hopkins BILL No. HB 125

ADDRESS 1531 11th Ave - Helena DATE 2/2

WHOM DO YOU REPRESENT Mont State Utility Co

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

Testimony on HB-425 by Perry Weidler representing
Montana Dakota Utilities Co.

Before Local Gov't Committee
2/12/81

At the present time companies delivering natural gas to the many communities of Montana must petition the City Council or governing body to hold an election in order to be granted a franchise.

These elections are time consuming, do have expenses connected with them and create very little voter interest.

For those reasons I ask this committee to repeal sections 7-5-4321 and section 7-5-4322 which set forth the election requirements.

Section 7-1-4123 is already in the statutes and gives a city or municipality the authority to grant franchises.

In 1979 in a franchise election in Billings, a city of approximately 65,000 population only 318 bothered to vote.

In 1979 in Glasgow- population 4700 - only 128 voted.

In 1980 in Sidney - population 4500 - only 82 voted.

What is a Franchise?

Briefly:

1. Grants to a company a non-exclusive right to use the streets and alleys for purpose of constructing and operating facilities necessary in a utility operation for a stated period of time. (Usually 10, 15 or 20 years)
2. States that the utility system shall be efficient.
3. Provides that the city shall not be liable for any litigation which might arise as a result of utility facilities being located in the streets and alleys.
4. A franchise granted to a company is not exclusive. (Even though a franchise has been granted for 20 years it is possible for the city to grant another franchise for the same service during the same period.

7-1-4123. Legislative powers. A municipality with general powers has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

(1) preserve peace and order and secure freedom from dangerous or noxious activities;

(2) secure and promote the general public health and welfare;

(3) provide any service or perform any function authorized or required by state law;

(4) exercise any power granted by state law;

(5) levy any tax authorized by state law;

(6) appropriate public funds;

(7) impose a special assessment reasonably related to the cost of any special service or special benefit provided by the municipality or impose a fee for the provision of a service;

(8) grant franchises; and

(9) provide for its own organization and the management of its affairs.

History: En. Sec. 24, Ch. 455, L. 1979.

7-1-4123(8) grant power to franchise

7-5-4321. Grant of franchise — election required. (1) The council may not grant a franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city.

History: (1)En. Sec. 4813, Pol. C. 1895; re-en. Sec. 3290, Rev. C. 1907; amd. Sec. 1, Ch. 29, L. 1921; re-en. Sec. 5074, R.C.M. 1921; re-en. Sec. 5074, R.C.M. 1935; Sec. 11-1206, R.C.M. 1947; (2)En. Sec. 1, Ch. 85, L. 1903; re-en. Sec. 3291, Rev. C. 1907; re-en. Sec. 5075, R.C.M. 1921; re-en. Sec. 5075, R.C.M. 1935; Sec. 11-1207, R.C.M. 1947; R.C.M. 1947, 11-1206, 11-1207; amd. Sec. 9, Ch. 311, L. 1979.

7-5-4322. Election on question of granting franchise. (1) Notice of the election shall be published as provided in 13-1-108. The notice must state the time and place of holding the election, the character of any such franchise applied for, and the valuable consideration, if there is any, to be derived by the city.

(2) At such election the ballots must contain the words "For granting franchise" and "Against granting franchise", and in voting, the elector must make a cross (X) opposite the answer he intends to vote for. The election must be conducted and canvassed and the return made in the same manner as other city or town elections.

(3) If the majority of the votes cast at the election are "For granting franchise", the mayor and city council must thereupon grant the same by the passage and approval of a proper ordinance.

History: (1), (2)En. Sec. 2, Ch. 85, L. 1903; re-en. Sec. 3292, Rev. C. 1907; re-en. Sec. 5076, R.C.M. 1921; re-en. Sec. 5076, R.C.M. 1935; Sec. 11-1208, R.C.M. 1947; (3)En. Sec. 3, Ch. 85, L. 1903; re-en. Sec. 3293, Rev. C. 1907; re-en. Sec. 5077, R.C.M. 1921; re-en. Sec. 5077, R.C.M. 1935; Sec. 11-1209, R.C.M. 1947; R.C.M. 1947, 11-1208, 11-1209; amd. Sec. 304, Ch. 571, L. 1979.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 425 Date 2/12/81 at 12:30 pm

SPONSOR Darryl Meyer

NAME	RESIDENCE	REPRESENTING	SUPPORT	OP
William L. Romine	Helena	Solid Waste Contractors		X
Gary M. Zadick	Great Falls	Solid Waste Contrac		X
Lester A Wilson	Hamilton	" " "		X
Scott J. Orr	Libby	" " "		X
Donna Hartley	Helena	" " "		X
Max Baucus	Missoula	" " "		X
John Palagi	Gt. Falls	" " "		X
Kent Mayer	Helena	Mont Taxpayers Ass't	X	
Terry White	Helena	MPC	X	
Rose Leavitt	Helena	LWV	~~X~~	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

NAME: William L. Romine DATE: 2-12-81

ADDRESS: P.O. Box 1691 Helena Mt.

PHONE: 442-2220

REPRESENTING WHOM? Solid Waste Contractors Assn.

APPEARING ON WHICH PROPOSAL: H.B. 425 425

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: If this bill is passed, a city could give a exclusive franchise to one party, and prevent any private, licensed garbage haulers from picking up garbage within the city limits. This could be done without the approval of the people. Even if the private haulers could provide better service, or even cheaper, the citizens of the city could not use the private collectors. Under the present system, some people prefer private haulers, even though they have to still pay the city, although they are not receiving city service. this law has been in effect since the 1890's, it covers many areas other than garbage service, and there is no reason why it should be changed now.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 13, 1981

The Local Government Committee met February 13, 1981 at 7:30 p.m. in Room 103 of the Capitol. The meeting was called to order by CHAIRMAN VERNER BERTELSEN. The roll call was taken and all committee members were present but REPRESENTATIVES HURWITZ, KESSLER and PISTORIA, who were absent.

HOUSE BILL 704

CHAIRMAN BERTELSEN announced that HB 704 would be heard first.

HOUSE BILL 704 SPONSOR, REP. DUSSAULT introduced the bill. The purpose of HB 704 is to provide an exemption for bus stops in areas otherwise forbidden for motor vehicles to stop. In Missoula the buses are not legally permitted to stop in orange marked zones, but to make it legal for them to do this, they asked for approval from the legislature.

PROPONENTS

RICHARD A. HOWELL of the Transit Bureau, Department of Community Affairs, stated this is more of a legal problem than anything. Missoula is the first city that has run into this problem. Basically, we are looking for a clarification in the law. We have checked with the Department of Highways and the City Engineers of Billings, Helena, Great Falls and Missoula for the language in the bill. As long as there is a study required and as long as the State Highway Department has the review approval of highways, the street areas so marked can be used for bus stops.

OPPONENTS

There were no opponents to HOUSE BILL 704.

CHAIRMAN BERTELSEN asked REP. DUSSAULT to close.

REP. DUSSAULT: I close.

REP. DUSSAULT moved that HOUSE BILL 704 DO PASS.

Question: All in favor of HOUSE BILL 704 say "aye". All were in favor so HOUSE BILL 704 received a unanimous DO PASS vote.

REP. GOULD moved that HOUSE BILL 704 be put on the consent calendar. All committee members approved.

REP. McBRIDE thought REP. DUSSAULT deserves a chance to discuss her bill on the floor. This was agreed so the Chairman asked that "it be removed from the consent calendar".

HOUSE BILL 425

CHAIRMAN BERTELSEN asked committee members if they wanted to take executive action on HOUSE BILL 425.

REP. GOULD moved that HOUSE BILL 425 DO PASS.

The CHAIRMAN said this is the bill dealing with franchises being granted by municipalities. The amendments were proposed by the Montana-Dakota Utilities and Staff Researcher LEE HEIMAN fit them into the bill. Read through them and see how you feel. (See copy of Standing Committee Report attached.)

MR. HEIMAN said by definition a franchise that goes through an election keeps it exclusive, but most franchises are a written document where it says exclusive. There is absolutely no problem with keeping the two apart. He said non-exclusive franchises are no problem in granting. Any exclusive franchise has to go through an election, which separates the two automatically.

REP. VINGER said he thinks this takes care of the solid waste people. All the utility franchises in the State are just gas. You don't have to have electric, but they are all non-exclusive. In other words, the city can offer a franchise to another solid waste district.

REP. MATSKO; The City of Great Falls does have an exclusive franchise for city gas.

CHAIRMAN BERTELSEN asked if the Committee was ready for the question

QUESTION: All in favor of DO PASS on the amendments say "aye". The motion on the amendments carried unanimously.

QUESTION ON PASSING HOUSE BILL 425 AS AMENDED: All in favor say "aye". The vote was unanimous for DO PASS AS AMENDED.

HOUSE BILL 438

HOUSE BILL 438 will be held until Monday, February 16 as MR. HEIMAN has not had an opportunity to prepare the amendments.

HOUSE BILL 516

The question was asked if anybody ever came up with a fiscal note on this bill.

CHAIRMAN BERTELSEN said he has one. MR. HEIMAN secured some which he then passed out.

Amend House Bill 425.

1. Title, line 5.
Following: "GRANT A"
Insert: "NON-EXCLUSIVE"

2. Title, line 6. all caps
Following: "Electors;"
STRIKE: "REPEALING SECTIONS"
INSERT: "AMENDING SECTION"

3. Title, line 7.
Following: "7-5-4321"
Strike: "AND 7-5-4322"

4. ~~Title~~ Page 1, lines 11 and 12.
Following: "Section 1."
Strike: remainder of section 1 in its entirety.
Insert: "Section 7-5-4321, MCA, is amended to read:

exclusive

7-5-4321. Grant of franchise — election required. (1) The council

an exclusive

may not grant ~~a~~ franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

exclusive

(2) No franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city." "

STANDING COMMITTEE REPORT

February 24, 19 91

BEST COPY AVAILABLE

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 425

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A MUNICIPALITY TO GRANT A FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS; REPEALING SECTIONS 7-5-4321 AND 7-5-4322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 425

Amend House Bill 425

1. Title, line 5.
Following: "GRANT A"
Insert: "NON-EXCLUSIVE"

2. Title, line 6.
Following: "ELECTORS;"
Strike: "REPEALING SECTIONS"
Insert: "AMENDING SECTION"

3. Title, line 7.
Following: "7-5-4321"
Strike: "AND 7-5-4322"

DD:RASSX

Verner L. Bertelsen Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 1, lines 11 and 12.
Following: "Section 1."
Strike: remainder of section 1 in its entirety.
Insert: "Section 7-5-4321, MCA, is amended to read:

"7-5-4321. Grant of exclusive franchise — election required. (1) The council may not grant an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No exclusive franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city." "

AS AMENDED
DO PASS

Verner L. Bertelsen Chairman.

STATE PUB. CO.
Helena, Mont.

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
321	2/13	3/13	3/14				3/14		
346	2/10	3/11	3/11				3/11		
STATEMENT OF INTENT HB 346			3/11				3/11		
350	2/10	3/9	3/9					3/9	
360	2/13	3/11	3/11				3/11		
376	3/4	3/18	3/21 Tabled						
377	3/4	3/18	3/20				3/20		
378	3/2	3/18	3/20				3/20		
380	3/2	3/18	3/20				3/20		
385	3/5	3/20	3/21					3/21	
396	2/13	3/9	3/9				3/9		
409	3/2	3/12	3/14				3/14		
425	3/2	3/20	3/21				3/21		
430	3/2		3/4	MOVED TO LABOR COMMITTEE					
448	3/3	3/18	3/26					3/26	
450	2/19	3/9	3/4	MOVED TO AGRICULTURE COMMITTEE					

Use a separate sheet for Senate, House Bills, and Resolutions.

HOUSE BILL NO. 425

INTRODUCED BY MEYER, DUSSAULT, WILLIAMS, STOBIE, COZZENS, QUILICI, FEDA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A MUNICIPALITY TO GRANT A NONEXCLUSIVE FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS; ~~REPEALING--SECTIONS~~ AMENDING SECTION 7-5-4321 ~~AND 7-5-4322~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. ~~Repealer.--Sections 7-5-4321 and--7-5-4322, MCA,--are--repealed.~~ SECTION 7-5-4321, MCA, IS AMENDED TO READ:

"7-5-4321. Grant of exclusive franchise -- election required. (1) The council may not grant a an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No exclusive franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city."

Section 2. Effective date. This act is effective on passage and approval.

-End-

THIRD READING

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 20, 1981

The regular meeting of the Business and Industry Committee was called to order by Chairman Hazelbaker at 10 a.m. in room 404 of the Capitol Building on Friday, March 20.

ROLL CALL: All members present with the exception of Senator Dover, excused.

HOUSE BILL NO. 385: Representative Pistoria, District 39. This bill increases the annual report fee for each individual or family unit covered by a health service corporation from 20 cents to 50 cents, subject to a minimum of $100. The corporation is required to submit contracts and forms to the insurance commissioner for approval at least 30 days prior to use. The commissioner is required to examine each health service corporation at least once every four years. I would like to thank Jay Fabrega for a job well done. The House B & I Committee made changes that are more effective and strengthen the bill.

The bill accomplishes practically everything I asked for, and what the senior citizens have been wanting for some time. The control of the non-profit health insurance corporations such as Blue Shield and Blue Cross, the Blues, as they are called by the State Auditor, Sonny Omholt, who is also the Insurance Commissioner. It is the first time the blues will be controlled by the Insurance Commissioner as the private health insurance corporations are.

I would like to give a few reasons why I introduced this bill. The strong feelings and public demand due to many complaints, which I received from people through letters and telephone calls, who have had to have medical care.

1. The long delays in payment of claims
2. In many cases, the citizens did not receive or were denied the just amount coming to them for their illness.
3. In some cases the amount coming to them was less, and they could not afford to hire an attorney and court costs to defend themselves. Therefore, they accepted the amount of the claim.

I have a couple of letters that I received that I would like you to read, which verifies what I have stated. I understand that Blue Shield and Blue Cross will not oppose this as written up and will adhere to it. The bill makes one change and has two new additions. It also has a statement of intent, which Mr. Fabrega will explain, because it came from his committee.

extremely tough market place. We have suffered severe underwriting losses. We had a loss of 1.7 million here in Montana. In Montana Blue Cross and Blue Shield are competitive. The bulk of the coverage is purchased by companies for their employees. We realize that there should be some additional scrutiny of our operation. We don't object to any form of reasonable regulation. We do support the bill as it now appears before you.

RAY FISCHER: Blue Cross, Great Falls. We support the bill. We operate in the market place, of hospitals and physicians.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR REGAN asked Representative Fabrega to explain the 5 million in the fiscal note in more detail, which he did. He also explained that the dollar values do not have anything to do with the fifty cents.

With no further discussion the hearing closed on House Bill No. 385.

HOUSE BILL NO. 425: Representative Meyer, District 42. This is a simple little bill. It would allow a municipality to grant a non-exclusive franchise without submitting the application for the nonexclusive franchise to the electors of the municipality. This would be to gas companies. What this will do is allow the city to grant the franchises.

PERRY WEIDLER: Montana-Dakota Utilities Company. At the present time companies delivering natural gas to the many communities of Montana must petition the City Council or governing body to hold an election in order to be granted a franchise. These elections are time consuming, do have expenses connected with them and create very little voter interest. This bill amends section 7-5-4321 which sets forth the granting of franchise election requirements. It would allow the city council or governing body to grant a non-exclusive franchise without submitting the petition to the electors. In the 1979 franchise election in Billings, a city of approximately 65,000 population only 318 bothered to vote. 1979 franchise election in Glasgow, population 4700, only 128 voted. In 1980 franchise election in Sidney, population 4500, only 82 voted.

What is a franchise, briefly, it does the following:

1. Grants to a company a non-exclusive right to use the streets and alleys for purpose of constructing and operating facilities necessary in a utility operation for a stated period of time.

2. States that the utility system shall be efficient.

3. Provides that the city shall not be liable for any litigation which might arise as a result of utility facilities being located in the streets and alleys.

4. A franchise granted to a company is not exclusive. Even though a franchise has been granted for 20 years it is possible for the city to grant another franchise for the same service during the same period.

Presented copies of the section of law pertaining to franchises. Exhibit A.

We concur in the bill. When our franchise runs out we have to have an election. In one case of an election, in Chester, the franchise was turned down. We think it would be better if we could go to the local governing body. There were some problems in the House but it now applies only to gas utilities and it is not exclusive.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR LEE: I am kind of curious what happened in Chester.

SENATOR KOLSTAD: We had some environmentalists with a vendetta against Montana Power and they circulated petitions. It was a really ridiculous thing. Finally, they were convinced that they didn't want to freeze to death so they quit.

REPRESENTATIVE MEYER: I close on the bill.

With no further discussion, the hearing closed on House Bill No. 425

HOUSE BILL NO. 578: Representative Vincent, District 78. The bill requires the governor to designate an agency to administer a small business licensing coordination center. The center is intended to streamline and minimize the governmental and business costs and procedures of necessary licensing and inspection. The governor is empowered to change license renewal periods or expiration dates to implement recommended improvements. Federal and local governments are encouraged to make license and permit information availab through the center. All but 14 businesses in Montana are small businesses so this applies to almost every business. This is the Montana Small Business licensing Coordination Act. The licensing in this state is a real hassel that chews up valuable time and profits.

SENATOR LEE: I move to amend section 1, page 5, line 12, to strike section 1, 2, and 4 through 12 in their entirety.

SENATOR REGAN said she would like to have Greg do some research to be sure this was what they wanted to do.

Then followed lengthy discussion about the flaws in the bill.

The motion to amend carried by a vote of 6 to 1 with Senator Regan voting NO.

SENATOR GOODOVER offered a substitute motion to pass consideration until Greg had had time to do the research and bring it before the committee. Motion carried with the vote unanimous.

ACTION ON HOUSE BILL NO. 425:

SENATOR REGAN moved be concurred in. The motion carried with the vote unanimous. Senator Kolstad will carry.

HOUSE BILL NO. 578:

SENATOR BLAYLOCK moved the proposed amendments. The motion carried with the vote unanimous.

SENATOR BLAYLOCK moved as amended be concurred in. There was lengthy discussion about the funding, does it have to be in a separate bill. Greg will check on this.

SENATOR HAZELBAKER suggested they pass consideration on this bill for this day and Senator Blaylock withdrew his motion.

HOUSE BILL NO. 385:

SENATOR BLAYLOCK moved the proposed amendments. The motion carried with the vote unanimous.

SENATOR BLAYLOCK moved as amended be concurred in. The motion carried with the vote unanimous. Senator Goodover will carry.

The meeting adjourned at 12:10.

Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981 Date 3/20/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	✓		
Hazelbaker, Frank - Chairman	✓		
Blaylock, Chet	✓		
Boylan, Paul	✓		
Dover, Harold			
Kolstad, Allen	✓		
Lee, Gary	✓		
Regan, Pat	✓		

Each day attach to minutes.

DATE March 20, 1981

COMMITTEE ON HOUSE BILL NO. 425

Representative Meyer

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppo
William L. Romine	Solid Waste Contractors Assn		
Perry Weidler	Mont Oak Util Co	✓	
Bob Hanson	Mont Power	✓	

(Please leave prepared statement with Secretary)

NAME: Perry Weidlin DATE: 3/20

ADDRESS: Helena Mont

PHONE: 442 7365

REPRESENTING WHOM? Mont-Dak Util Co

APPEARING ON WHICH PROPOSAL: HB 425

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

March 20, 19 81

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 425

Meyer (Senator Kolstad)

Respectfully report as follows: That HOUSE Bill No. 425

BE CONCURRED IN

DXXXSSX

JRt

Frank W. Hazelbaker, Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 425

INTRODUCED BY MEYER, DUSSAULT, WILLIAMS, STOBIE, COZZENS, QUILICI, FEDA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A MUNICIPALITY TO GRANT A NONEXCLUSIVE FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS; ~~REPEALING--SECTIONS~~ AMENDING SECTION 7-5-4321 ~~AND 7-5-4322~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(2) No exclusive franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city."

Section 2. Effective date. This act is effective on passage and approval.

-End-

REFERENCE BILL